


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
AUSTIN DIVISION
2005 MAR 28 PM 3:55
WESTERN DISTRICT OF TEXAS
U.S. CLERK'S OFFICE
BY:  DEPUTY

ELEAZAR GONZALEZ and
LUIS GARCIA,

Plaintiffs,

C.A. N. **A05CA 223 SS**

v.

ERNESTO GONZALEZ, and SUK CHA
GONZALEZ, d/b/a HONG KONG BUFFET,

Defendants.

COMPLAINT

PRELIMINARY STATEMENT

1. This is an action for unpaid minimum wages and overtime brought by Eleazar Gonzalez and Luis Garcia who were employed by Defendants Ernesto Gonzalez and Suk Cha Gonzalez in their Chinese restaurant. Plaintiffs seek money damages to redress these violations of law.

JURISDICTION

2. This Court has jurisdiction over the subject matter of this action pursuant to 29 U.S.C. § 216(b) (Fair Labor Standards Act), and 28 U.S.C. § 1337 (actions arising under Acts of Congress regulating commerce).

VENUE

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

PARTIES

4. Plaintiffs Eleazar Gonzalez and Luis Garcia are residents of Hays County, Texas.
-

5. Defendants Ernesto Gonzalez and Suk Cha Gonzalez are residents of Hays County, Texas and may be served at 812 South Guadalupe Street, San Marcos, Texas, 78666.

FACTS

6. At various times during the period 1999 to February 2005, Plaintiff Eleazar Gonzalez worked for Defendants in their Chinese restaurant known as Hong Kong Buffet.
7. Plaintiff Luis Garcia was employed by Defendants in their Chinese restaurant from approximately January 2004 through February 2005.
8. Defendants were “employers” of Plaintiffs as that term is defined in 29 U.S.C. § 203(d).
9. At all times during Plaintiffs employment, Defendants d/b/a Hong Kong Buffet operated as an “enterprise engaged in commerce or in the production of goods for commerce” as that term is defined by 29 U.S.C. §203(s).
10. As employees of Defendants, Plaintiffs were entitled to the protections of the Fair Labor Standards Act, 29 U.S.C. §201 et seq., including the right to minimum wage and overtime pay.
11. Defendants failed to pay Plaintiffs at least the minimum wage for all of their hours up to 40 hours per week and failed to pay them overtime for all hours they worked in excess of forty hours per week.
12. Defendant’s actions in failing to comply with the requirements of the Fair Labor Standards Act were willful.
13. At all times during Plaintiffs employment, Defendants were employers of

Plaintiffs subject to the requirements of the Texas Minimum Wage Act, Chapter 62, Texas Labor Code.

14. All conditions precedent to this action have been satisfied.

FIRST CAUSE OF ACTION

15. By failing to pay Plaintiffs the required minimum wage and overtime, Defendant violated Plaintiffs' rights under the Fair Labor Standards Act, 29 U.S.C. § 206 and 207, for which Plaintiffs are entitled to relief pursuant to 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION

16. By failing to pay Plaintiffs the required minimum wage and overtime, Defendant violated Plaintiffs' rights under the Texas Minimum Wage Act, for which Plaintiff is entitled to relief pursuant to Texas Labor Code §62.201.

PRAYER FOR RELIEF

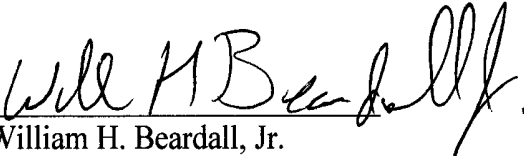
WHEREFORE, the Plaintiffs pray that, upon trial of this action, this Court enter an order:

- (a) Granting judgment in favor of Plaintiffs and against Defendants on their Fair Labor Standards Act claim and awarding them their unpaid minimum wages and overtime and an equal amount of liquidated damages;
- (b) Awarding Plaintiffs their reasonable attorney's fees;
- (d) Awarding Plaintiffs their costs; and
- (e) Granting such other and further relief as this Court deems just and appropriate.

Respectfully submitted,

William H. Beardall, Jr.
Texas Bar I.D. No. 1980600
EQUAL JUSTICE CENTER

510 South Congress Ave., Suite 206
Austin, Texas 78704
(512) 474-0007 ext. 105
Fax: (512) 474-0008

By: 
William H. Beardall, Jr.
Texas Bar I.D. No. 1980600
ATTORNEYS FOR PLAINTIFFS